United Nations CCPR/C/SR.3096

International Covenant on Civil and Political Rights

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Human Rights Committee
111th session

Summary record of the 3096th meeting*
Held at the Palais Wilson, Geneva, on Friday, 25 July 2014, at 3 p.m.

Chairperson: Sir Nigel Rodley

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Organizational and other matters

Closure of the session

* No summary record was prepared for the 3094th or 3095th meetings.

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Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.14-09646 (E) 301014 311014

1409646

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The meeting was called to order at 3 p.m.

Organizational and other matters

Methods of work (continued)

1. **The Chairperson** invited the Committee to continue the consideration, initiated at its 3077th meeting (see CCPR/C/SR.3077), of the draft conclusions, decisions and recommendations adopted by the chairpersons of the treaty bodies at their twenty-sixth annual meeting (document without a symbol distributed in the meeting room in English only).

2. **Ms. Seibert-Fohr** said that she was not sure that the suggestions contained in the draft conclusions, decisions and recommendations of the meeting of the chairpersons on the harmonization of concluding observations did anything more than describe the current practice of the Committee, as had been pointed out during the previous discussion on methods of work. In Annex II of the draft document, the treaty bodies were encouraged to set a time frame for the implementation of their recommendations, a suggestion that could be interpreted in a number of ways. Either it referred to the Committee's follow-up procedure, under which the States parties were requested to provide information on the follow-up to certain recommendations within the space of one year, which was not a problem, or it implied that, henceforth, all recommendations had to fit within a particular time frame, which seemed excessive. Furthermore, she was worried that in the draft the treaty bodies were invited to provide the States parties with guidelines on changes required in their legislation. Such an approach seemed somewhat hazardous, however, as the Committee did not have a mandate to tell legislative bodies what to do.

3. **The Chairperson** explained that the meeting of chairpersons had based their suggestion on the fact that States parties often complained that recommendations were too vague and that the committees' indications were not precise enough to give them a clear idea of what was expected of them. The suggestion was not in any way binding. It might happen, for instance in the case of the death penalty that the Committee would recommend that the State party concerned take legislative measures. It was up to the Committee to decide, in each case, how precise its recommendations needed to be. Likewise, the suggestion that a time frame should be set for the implementation of recommendations did not in any way imply that the Committee should alter its follow-up procedure in any way. There was, therefore, no cause for concern, as the Committee was perfectly free to take on board or reject the suggestions contained in the draft adopted by the meeting of the chairpersons.

4. **Ms. Seibert-Fohr** said that the Committee should discuss how to allocate the additional funding it had been granted by the General Assembly in order to improve its performance. In particular, she would like details of the schedule and length of the Committee's upcoming sessions.

5. **Mr. Shany** said that he had seen the secretariat's draft on resource allocation, from which it emerged that two sessions would be extended, one by a week, and the other by four days, and that it had been decided that the Committee would only meet in dual chambers starting in October 2015. Recalling that Committee members had to combine the needs of their professional careers with their activities as experts within the Committee, he pointed out that the longer sessions would imply significant upheavals for some members. Noting that the decision to postpone the holding of meetings in parallel chambers had been due to the arrival of new Committee members and the lack of human resources, he did not see why the Committee should not be split into two groups, considering that it had enough experienced members to offer newcomers support. Moreover, since the Committee was not expected to consider more State party reports at each session than usual, even during the

extended sessions, he did not see why the switch to parallel chambers would need to be postponed on account of staff shortages. While he was quite aware that the new procedure would lead to a significant increase in the secretariat's workload, it should not be forgotten that Committee members would equally be affected.

6. **The Chairperson** said that, at the request of the Bureau, the secretariat would look into the possibility of the Committee meeting in parallel chambers earlier than its October 2015 session. It seemed, however, that bringing the date forward would raise a number of complications, such as limited supply of meeting rooms and interpretation services, or the fact that a proposal on the scheduling of all the meetings organized by the Office of the United Nations High Commissioner for Human Rights had already been drawn up and was currently being considered by Conference Management in New York.

7. **Ms. Seibert-Fohr** said that she was in favour of the parallel chambers procedure but she doubted whether it could be introduced once the Committee had switched over to four-week sessions. Moreover, since the Committee currently considered six State party reports per session and since at that pace there would be no more outstanding reports by the end of 2015, she wondered how the Committee would use the extra meeting time it had been granted and whether it would not have been better to continue to stick to three-week sessions.

8. **The Chairperson** said that, insofar as it had expressly requested the extra weeks in order to tackle the backlog of State party reports and communications, the Committee had no choice but to make use of the extra time.

9. **Mr. Rodríguez-Rescia**, supporting the Chairperson, said that, if the Committee did not put the extra meeting time allowed to good use, it might forfeit any chance of obtaining additional resources in the future.

10. **The Chairperson** said that, notwithstanding the problems that certain Committee members might have to face as a result of having to prolong their stay in Geneva to attend the longer sessions, the parallel chamber option, although not entirely satisfactory, undeniably warranted serious consideration. Although it was currently being proposed as a temporary measure, it might well become a permanent fixture if the Committee had no other means of keeping up to date with its workload of reports and communications.

11. Moving on to the announcement of Bureau decisions, **the Chairperson** informed the Committee members that Mr. Rodríguez-Rescia had been appointed to the post of rapporteur on reprisals. In the absence of any objection, he would take it that the appointment was approved.

12. *It was so decided.*

13. **The Chairperson** said that the summary records of the three Bureau meetings held during the session had been distributed to the Committee members and that, in the absence of any objection, he would take it that they had been approved in their entirety.

14. *It was so decided.*

15. **The Chairperson**, summarizing the work carried out during the session, said that the Committee had adopted concluding observations on the reports of Chile, Sudan, Malawi, Georgia, Ireland and Japan, unedited versions of which had been put up on the Committee's web page. Among the highlights of the session, he pointed to the extremely impressive civil society inputs and presence during the consideration of the reports of Ireland and Japan, the presence, for the first time, of four national human rights institutions, and the widespread media coverage of the Committee's work. As to the 38 communications dealt with by the Committee, 7 had been found inadmissible, while 26 decisions had been adopted on the merits and 5 cases had been discontinued. The Committee had adopted lists of issues on

Cambodia, Côte d'Ivoire, France, Russian Federation, Cyprus, Poland and Mexico and had begun its second reading of the draft general comment on article 9, which it hoped to finalize at its next session, taking into account the comments of a large number of stakeholders. As to methods of work, the Committee had considered the outcome of the meeting of the treat body chairpersons and had adopted most of the proposals made relating to the implementation of the General Assembly resolution on strengthening the treaty bodies. The Committee had also adopted the secretariat's proposal on how to deal with the extra meeting time that would be available in 2015 – three and a half days in March and an extra week in both July and October. Without prejudice to the discussion on that issue that had just taken place, the Committee would meet in parallel chambers during the fourth week of its October session. As to cooperation with other treaty bodies, the Committee had met with the Committee on the Elimination of Discrimination against Women for the fourth time and it was grateful to the Geneva Academy of International Humanitarian Law and Human Rights and the Government of Switzerland for having hosted the event. The Chairperson recalled that the next session of the Committee would be held from 7 to 31 October 2014 and that the extra week would be used to consider communications. Further information on the agenda for that session would be sent to members in due course.

Closure of the session

16. After an exchange of courtesies, **the Chairperson** declared closed the 111th session of the Human Rights Committee.

The meeting rose at 3.45 p.m.

United Nations CCPR/C/SR.3097

International Covenant on Civil and Political Rights

Distr.: General
3 November 2014
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Human Rights Committee
112th session

Summary record of the first part (public)* of the 3097th meeting
Held at the Palais Wilson, Geneva, on Tuesday, 7 October 2014, at 10 a.m.

Chairperson: Sir Nigel Rodley

Contents

Opening of the session by the Director of the Human Rights Treaty Division

Adoption of the agenda

Organizational and other matters, including the adoption of the report of the Working Group on Communications.

* There was no summary record for the second part (closed) of the meeting.

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Please recycle

The meeting was called to order at 10.05 a.m.

Opening of the session by the Director of the Human Rights Treaties Division

1. **Mr. Salama** (Director of the Human Rights Treaties Division) declared open the one hundred and twelfth session of the Human Rights Committee and commended the invaluable contribution to the Committee's work made by Ms. Chanet, Mr. Flinterman, Mr. Kälin, Ms. Majodina, Mr. Neuman and Mr. Zlătescu, the Committee members whose mandates would be expiring at the end of the year.

2. He recalled that, in its resolution 68/268 on strengthening and enhancing the effective functioning of the human rights treaty body system, the General Assembly had allocated additional weeks of meeting time to the committees with the aim of tackling the backlog of reports and communications pending consideration and had suggested a number of ways of further harmonizing the treaty body system and making it more accessible. In that regard, the Human Rights Committee had already taken an important step by suggesting that the States parties should submit their reports according to the simplified reporting procedure, and it would use the extra week of meeting time to deal with some 50 individual communications, which would help reduce the outstanding backlog. In addition, aware of the problem of acts of intimidation and reprisals directed against individuals or groups that contributed to their work, the treaty bodies had responded to another of the proposals contained in General Assembly resolution 68/268 by appointing rapporteurs on reprisals, and in order to harmonize their approach the treaty body chairpersons had also decided to draw up a common policy.

3. He then drew the Committee's attention to the publication by the Office of the United Nations High Commissioner for Human Rights, mandated by a General Assembly resolution, of an initial report on the protection and promotion of the right to privacy in the context of the surveillance and interception of digital communications and the collection of personal data, entitled *The right to privacy in the digital age* (A/HRC/27/37). The work of the Committee on the subject, particularly its jurisprudence on the extraterritorial responsibility of States, was highlighted in the report. As the right to privacy was one of the rights protected under the International Covenant on Civil and Political Rights (ICCPR), the Committee was particularly well placed to discuss such issues with the States parties, to assess the extent to which they respected the relevant provisions of the Covenant and to make recommendations regarding any necessary changes. Questions such as mass surveillance were appearing increasingly frequently on the lists of issues and in the concluding observations adopted by the treaty bodies.

4. Lastly, he said that 2014 marked the twenty-fifth anniversary of the adoption of the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. Referring to a recent report of the Secretary-General on the question of the death penalty (A/HRC/27/23), he said that around 160 States had abolished or introduced a moratorium on the death penalty, either in law or in practice, or had suspended executions. Notwithstanding that trend towards abolition, many concerns remained regarding respect for international human rights norms and standards in States which still imposed the death penalty, and many cases had shown that, even in the most robust of legal systems, women and men had been condemned to death although proven innocent, which was intolerable. He urged the Committee, in its role as custodian of the Optional Protocol, to encourage as many States as possible to ratify that instrument before the end of the current year.

5. *Mr. Salama, Director of the Human Rights Treaties Division, withdrew.*

6. **The Chairperson** said that, before moving on to discuss the next agenda item, he wished to mention the situation in Iraq and Syria, where a group of people were following

policies that were totally opposed to universal values and international standards in the field of human rights. Those who belonged to the group claimed to be founding a State and glorified murder, torture and the torturing to death of innocent people, helpers and even journalists, who were the eyes of the international community. They claimed they were acting in the name of a great religion, which they in fact sullied. He believed that the case in question was clearly covered by the commitments contained in the 2005 World Summit Outcome (A/RES/60/1) regarding the duty to protect. At the same time, earlier conflicts and the related human rights violations were continuing, including in Syria and in the context of the Israeli-Palestinian conflict, in the Great Lakes region of Africa and, most regrettably, in Eastern Europe, where established borders had recently been challenged through the use of force.

Adoption of the agenda (CCPR/C/112/1)

7. *The agenda was adopted.*

Organizational and other matters, including the adoption of the report of the Working Group on Communications

8. **Mr. Ben Achour** (Chairperson-Rapporteur of the Working Group on Communications) recalled that the members of the Working Group were Mr. Bouzid, Ms. Chanet, Mr. Flinterman, Mr. Neuman, Mr. Rodríguez-Rescia, Ms. Waterval and himself. The Working Group had met from 29 September to 3 October 2014 and had considered the 45 communications submitted to it by the Secretariat. He recommended that the Committee should find 6 decisions of inadmissibility and 1 decision of admissibility, and should consider the merits of the other 38 communications.

9. The Working Group had regretted that the texts of several communications had not been translated into the working languages of the Committee. Having discussed recommendations on reparations when considering several cases, the members of the Working Group felt that it was important that the Committee should hold a plenary discussion on the issue of reparations during the current session; preferably before it began consideration of individual communications.

10. **The Chairperson** congratulated the Working Group on Communications on its work. He added that the Committee would need to mobilize resources and define priorities if it was to resolve the problem of translations.

11. *The report of the Working Group on Communications was adopted.*

The discussion covered in the summary record ended at 10.25 a.m.

United Nations CCPR/C/SR.3098

International Covenant on Civil and Political Rights

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10 October 2014

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Human Rights Committee
111th session

Summary record of the 3098th meeting
Held at the Palais Wilson, Geneva, on Tuesday, 7 October at 3 p.m.

Chairperson: Sir Nigel Rodley

Contents

Consideration of reports submitted by States parties under article 40 of the Covenant

Fifth periodic report of Sri Lanka

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The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 40 of the Covenant

Fifth periodic report of Sri Lanka (CCPR/C/LKA/5; CCPR/C/LKA/Q/5 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Sri Lanka took places at the Committee table.*

2. **Mr. Aryasinha** (Sri Lanka), introducing his country's fifth periodic report (CCPR/C/LKA/5), said that the previous report had been considered in 2003 during a short-lived cessation of hostilities between the Government and the Liberation Tigers of Tamil Eelam (LTTE). That terrorist group had continued to violate the ceasefire, however, and successive governments had faced the challenge of preserving human rights in the face of violent acts of terrorism. The Government had been compelled to intervene militarily on humanitarian grounds to protect the human rights of its citizens, which had resulted in the liberation of the Eastern and Northern Provinces from LTTE control. Throughout the conflict, the Government had continuously supplied its citizens with food, medicines and other essential supplies.

3. Having restored to the whole population the most important right, namely the right to life, his Government was committed to the realization of all civil and political as well as economic, social and cultural rights, including the right to development. It had re-established the democratic framework, including the civil administration system, and local and provincial elections had been held in both the affected provinces. The Government continued to take action in the areas of demining, resettlement, rehabilitation, reconstruction, socioeconomic development and political empowerment.

4. Sri Lanka had taken several legislative measures in order to better meet its international obligations, such as enacting the International Covenant on Civil and Political Rights (ICCPR) Act No. 56 of 2007, and it continued to proactively engage with various bodies in the United Nations system. The Government had received visits from the United Nations High Commissioner for Human Rights, the Special Rapporteur on the human rights of internally displaced persons and the Special Rapporteur on the human rights of migrants and would consider extending invitations to other special rapporteurs. It also continued to engage with the Working Group on Enforced or Involuntary Disappearance.

5. The Government had accepted the majority of the recommendations made during the universal periodic review and had adopted the National Plan of Action for the Promotion and Protection of Human Rights 2011–2016. It was in the process of implementing the recommendations made by the Lessons Learnt and Reconciliation Commission, and it had established the Special Bureau for Reconciliation and the Presidential Commission of Inquiry on Missing Persons in the Northern and Eastern Provinces. A bill on assistance to and protection of victims of crime and witnesses had been submitted to Parliament in September 2014.

6. The Government had been quick to condemn the sporadic incidents of religious violence targeting places of worship of all four religions practised in the country. The police had taken steps to investigate the incidents that had taken place in Aluthgama and Beruwala and to bring the suspects before the courts. Thus far, 148 persons had been arrested in connection with those events. Although no special laws had been drafted to protect human rights defenders and media personnel, all constitutional guarantees were available to them. No press censorship had been imposed under the current Government, and the law on criminal defamation had been repealed. Media pluralism was well established in the country, and there were no restrictions on what could be reported by the press.

7. Although LTTE had been military defeated in Sri Lanka in May 2009, the threat of terrorism had not abated. Given that the use of terrorism to secure political and ideological objectives remained a possibility, the time was not yet right to repeal the Prevention of Terrorism Act.

8. **Ms. Tillekeratne** (Sri Lanka), summarizing her Government's replies to issues 1, 2, 8, 17 and 25 in the list of issues (CCPR/C/LKA/Q/5), said that the Supreme Court had determined that the Constitution and other laws gave adequate recognition to the Covenant rights and that those rights were justiciable through the legal and constitutional processes in place in the country. Under the eighteenth constitutional amendment, enacted in 2010, the composition and functioning of the Constitutional Council had been changed, and it had become known as the Parliamentary Council. The Supreme Court had declared the amendment to be constitutional. The President needed to consult the Parliamentary Council when making appointments pursuant to the amendment.

9. Provisions had been made to ensure that persons arrested under the Prevention of Terrorism Act were entitled to all safeguards. Since the end of the conflict, the Attorney-General had in many instances opted to rehabilitate suspects as an alternative to prosecution. The courts had also sent convicted persons for rehabilitation as a substitute for jail sentences. The Convention against Torture Act No. 22 of 1994 and the writ of habeas corpus were two examples of the legislative and judicial provisions in place to protect persons from arbitrary arrest and detention.

10. The 2011 Revival of Underperforming Enterprises and Underutilized Assets Act applied to enterprises that had been granted extensive concessions and exemptions with the understanding that they would achieve particular objectives, and it sought to address the failure of those enterprises to achieve those objectives. It had been declared constitutional by the Supreme Court. Mr. Sarath Fonseka had been convicted of various offences by two court martials and by the Colombo High Court. In May 2012, he had been pardoned and released from prison. In view of his pardon, he had not proceeded with his appeals against those convictions. All constitutional safeguards had been followed in the impeachment of former Chief Justice Shirani Bandaranyake, and a bench of five Supreme Court judges had declared the impeachment process constitutional.

11. **Mr. Kotawalagedara** (Sri Lanka), summarizing his Government's replies to issues 3 and 16 in the list of issues, said that, following the end of the armed conflict, the Government had taken on the challenge of rehabilitating more than 12,000 former LTTE combatants, and that the President had extended a general amnesty to all child soldiers on humanitarian grounds. Sri Lanka had subsequently been delisted from Annex II of United Nations Security Council resolution 1612 on children in armed conflict. Former combatants were transformed into peace-loving citizens through a comprehensive process that included rehabilitation, reinsertion, reintegration, reconciliation and reconstruction.

12. The Government recognized that long-term overcrowding in prisons was an important challenge and it had taken a number of measures to address the problem. New prisons were being built, and the capacity of existing prisons was being expanded. In addition, community-based correction measures were being encouraged. Various national and international officials and bodies conducted prison visits, and programmes were being carried out to educate prison officials with regard to the humane treatment of prisoners and the need to address the root causes of crime.

13. **Mr. Illayapparachchi** (Sri Lanka), summarizing his Government's replies to issues 3, 4 and 18 in the list of issues, said that the Government placed special emphasis on matters relating to women and children throughout the country. Women in Sri Lanka benefited from the universal health care system and the universal free education system. Changes in attitudes about women's position in society had been made possible by

women's high levels of educational attainment. The number of women in leadership roles in party politics remained low, however, compared with the percentage of women in the workforce, though the number of women participating in the formulation of government policy, holding public office and performing public functions had increased. The participation of women in professional services was increasing but was based on merit rather than gender quotas. A number of programmes were in place to assist women and girls, particularly those belonging to vulnerable groups. Examples included vocational and informal training programmes and the establishment of women's and children's desks in police stations throughout the country. The Government took stringent action against sexual and gender-based violence and was not aware of any incidents indicating that female ex-combatants faced a higher risk of rape and violence.

14. His Government had been identified by the South Asia Initiative to End Violence Against Children as the most child-friendly Government in the region. A number of mechanisms were in place to implement child rights at all levels of government. Discussions were under way to raise the minimum age of criminal responsibility so as to bring it into line with international standards.

15. **Mr. Divaratne** (Sri Lanka), speaking about his Government's approach to reconciliation, said that a series of measures had been taken to achieve durable solutions for internally displaced persons who had been resettled after the conflict. The appointment of the Presidential Task Force for Resettlement, Development and Security in the Northern Province had been key to that process. The Special Bureau for Reconciliation facilitated and coordinated the implementation of the recommendations made by the Lessons Learnt and Reconciliation Commission. The Government viewed reconciliation as a multifaceted and context-specific process and used a holistic approach to address the issue.

16. **Mr. Iwasawa** noted that the report was five years overdue but welcomed the opportunity to resume dialogue with the State party. While he commended Sri Lanka for becoming a party to many core human rights treaties and for ratifying the Optional Protocol to the Convention, he expressed serious concerns about the Government's lack of cooperation in individual communications procedures. The Committee was concerned about human rights violations that might have been committed by any of the parties in the armed conflict and wished to emphasize that justice, accountability and reconciliation must be secured. The state of the rule of law was also of great concern. The Committee took very seriously the issue of reprisals against members of civil society and expected the State party to share that commitment.

17. It would be helpful to know what progress had been made with the proposed introduction of a constitutional amendment to safeguard the rights to privacy, information and life. It was unclear how the rights recognized in the Covenant were justiciable, since the Covenant had not been incorporated in Sri Lankan law and the International Covenant on Civil and Political Rights Act gave effect to only four of its articles. He would welcome the delegation's comments on reports that, since a Supreme Court decision of 2006 that accession to the Covenant had violated the Constitution, the Covenant had had little effect and the Supreme Court was unlikely to engage in creative interpretation of the Constitution.

18. With reference to the principle of non-discrimination, it was a matter of concern that some of the rights embodied in the Covenant were denied to non-citizens without any justification.

19. It was regrettable that, since the Supreme Court's ruling that the Committee's views and recommendations were not binding, the State party had not cooperated in the individual communications procedures, despite the fact that under the Optional Protocol, which the State party had ratified in 1997, it had a legal obligation to do so. It was hard to understand

why the Supreme Court's decision in the *Singharasa* case prevented the Government from engaging in such cooperation.

20. He requested a response to allegations that the 18th amendment to the Constitution had politicized appointments to key oversight bodies and had tightened the Executive's control over independent bodies by placing the Attorney General's department under the direct control of the Executive, thereby severely undermining the independence of the judiciary.

21. He wished to know whether the High Court had referred any cases to the Human Rights Commission under the International Covenant on Civil and Political Rights Act for an inquiry and a report. According to information received by the Committee, the Human Rights Commission had been downgraded to B status in 2007 owing to its failure to comply with the Paris Principles. In view of worries about the Commission's financial independence, its limited mandate and its lack of timely action on complaints, he enquired as to the existence of plans to make the Commission compatible with the aforementioned Principles in order that it might regain its A status. It would also be interesting to hear what legislative changes would be introduced by a draft amendment to the Human Rights Commission Act, which was designed to strengthen the Commission's powers and mechanisms, and when the amendment was expected to enter into force.

22. He invited the delegation to comment on allegations that some former members of the Liberation Tigers of Tamil Eelam (LTTE) who had surrendered had been detained, interrogated, killed or gone missing. He requested an assessment of the activities of the Bureau of the Commissioner General of Rehabilitation mentioned in paragraph 29 of Sri Lanka's replies to the list of issues and would also appreciate the delegation's comments on information to the effect that former LTTE combatants who had been detained in protective accommodation and rehabilitation centres had not received useful training or counselling and had been subjected to lengthy interrogation. How were those centres supervised? Was it true that the security forces' persistent surveillance, intimidation and monitoring of former combatants' movement still restricted their freedom of movement and freedom of association and inhibited their social and economic reintegration?

23. **Mr. Flinterman** wondered whether Sri Lanka had a comprehensive strategy in place to eliminate practices, stereotypes and attitudes among senior politicians which discriminated against women. What was the legal status of the Women's Charter? Was it still in force and what remedies did it offer? He enquired as to the mandates of the National Committee on Women and the complaints centre. He would be pleased to receive information on the status of the Bill of Women's Rights and would like to know what steps, including temporary special measures, were envisaged to remedy the extremely low level of women's participation in political affairs and to increase the number of women in parliament. Was it true that the Presidential Task Force for Reconstruction and Resettlement did not include any women?

24. He was curious to find out whether the amendments to the Muslim Marriage and Divorce Act would set a minimum age for marriage and prohibit polygamy and whether the Committee considering those amendments included female representatives of the Muslim community. Had any time frame been set for the adoption of those amendments? Had thought been given to the drafting of a unified family code? Was any timeframe in place for removing provisions from other laws which discriminated against women?

25. He asked whether any steps were being considered to explicitly prohibit sexual orientation as grounds for discrimination and to address discrimination in law and in practice against members of the lesbian, gay, bisexual and transgender (LBGT) community.

26. He wondered whether the impunity which still prevailed with regard to domestic violence was due to a lack of women's awareness of their rights, a lack of training for law-

enforcement officers or the attitude of political leaders. He was therefore eager to hear what steps were being considered to combat all forms of violence against women and to adopt comprehensive legislation to prevent such violence, including rape. Was the State party contemplating the criminalization of marital rape?

27. It was unclear what period was covered by the reply to question 7. He was unsure whether the small number of prosecutions was compatible with the State party's duty under the Covenant to promptly investigate, prosecute and punish sexual offences committed by security personnel during and after the conflict. It would be helpful to receive detailed information on measures taken by the State party to respond to the findings of an International Crisis Group's report regarding an escalation of violence against war widows and single women and the abuse and harassment of former female combatants.

28. **Mr. Neuman** failed to understand what justification there was for the derogation from article 9(3) of the Covenant, since the emergency had ended and he was unsure whether the provisions on detention under the Prevention of Terrorism Act satisfied the standard set in article 4. Was the fact that the courts had no authority to review the need for detention under that Act consistent with the Covenant? What justification was there for the reversal of the burden of proof under that Act, which made it incumbent on the accused to prove that a confession had not been voluntary? The Committee wished to know how many habeas corpus cases had been filed in order to obtain release from security-related detention and in how many of those cases the courts had actually granted release. Had there been any cases which had led to the release of the detainee? When would the special detention regime be repealed?

29. **Ms. Seibert-Fohr**, referring to protection of the right to life, enquired as to the steps taken to prevent enforced and involuntary disappearances and extrajudicial killings (so-called "white van abductions"), which were still a serious problem and in which the military, the police and paramilitary groups under the control of the armed forces were allegedly implicated. What procedures and institutional mechanisms were in place to investigate the whereabouts of missing persons? She asked about the existence of official statistics recording disappearances. Was the Presidential Commission of Inquiry on Missing Persons in the Northern and Eastern Provinces competent to investigate disappearances in other parts of the country? Had the Commission, or any other investigative body, referred substantiated cases of abduction to the appropriate criminal procedures? Had the perpetrators been punished and had victims' families received compensation? She advocated expressly embodying the right to life in the Constitution and criminalizing enforced disappearance in the Penal Code. She would appreciate a description of the procedures and legal basis for investigating death during police custody. Which independent institution was in charge of such investigations? How many such deaths had occurred and what had been the outcome of the inquiry? What steps had been taken to conduct an independent investigation of the use of force by the army during riots in Welikada prison in 2012 and what obstacles existed to the proper investigation of deaths during the riot in Vavuniya prison in order to establish criminal responsibility and accountability for them ?

30. An update on efforts to amend the Penal Code to decriminalize abortion for therapeutic reasons or after rape or incest would be helpful. What was the result of the consultative process on that matter? When would the Bill mentioned in paragraph 64 of the State party's replies be introduced in Parliament? Information would be welcome on any measures to identify the reasons for and to prevent maternal mortality and to improve access to contraception and information about reproductive health and family planning in all regions of the State party.

31. **Mr. Shany** asked whether the findings of the inquiry into the killing of 17 local staff members of a French NGO in 2006 had been published and whether any measures had been

adopted in connection with those investigations. Had any steps been taken to address the concerns raised by the International Independent Group of Eminent Persons regarding the independence and impartiality of that inquiry? Since it was unclear why the factual findings of the Secretary-General's Panel of Experts on Accountability in Sri Lanka (Darusman Report) had been disputed by the Lessons Learnt and Reconciliation Commission (LLRC), it would be interesting to know whether those findings had been thoroughly examined and on what evidentiary basis they had been refuted. He also asked the delegation if the Army Court of Inquiry had investigated reports in Channel 4 broadcasts of extrajudicial executions, the shelling of civilians and rape and if anyone had been prosecuted for those alleged crimes. Why had the Court of Inquiry report not been placed in the public domain? Had there been any follow-up to the findings which it contained?

32. He invited the delegation to say whether the State party had adopted a restorative justice approach and to explain its current position on the need to balance accountability and reconciliation. He also asked it to respond to allegations regarding the lack of independence, adequate resources or witness protection programmes of the main post-LLRC investigative mechanisms.

33. He invited the delegation to respond to concerns about the independence and impartiality of the Court of Inquiry to investigate allegations of civilian casualties during the Sri Lankan Civil War, especially given that its members had been appointed by General Jagath Jayasuriya, who had been responsible for planning operations in the Vanni region.

34. He requested further information on the Presidential Commission to Investigate Complaints regarding Missing Persons, and asked whether the established time frame for the completion of its work was realistic, bearing in mind that it had already received almost 20,000 complaints. He asked whether it was true that the military was responsible for registering complaints, and whether temporary measures had been put in place ahead of the adoption of the Assistance and Protection to Victims of Crime and Witnesses Protection Bill.

35. He said that he wished to know whether the Government would reconsider its position with respect to the fact-finding body set up by the Human Rights Council. He also asked what steps had been taken to deliver justice to victims of the Civil War. In particular, the delegation should indicate how many, and to what extent, individuals had benefited from the reparations programme established under the National Action Plan on Promotion and Protection of Human Rights.

36. In reference to the report published by the Lessons Learnt and Reconciliation Commission (LLRC), he noted that the Government had earmarked 144 of the 285 operative paragraphs for implementation. He wished to know who had made the selection, on what basis, whether substantive recommendations had been omitted, and whether it was feasible to implement 144 recommendations in the time frame laid out for the National Action Plan.

37. He would welcome more detailed progress reports on the implementation of the National Action Plan, particularly in relation to reparations and investigations into the conscription of children. Five years on from the end of the Civil War, it was still not clear whether perpetrators had been brought to justice and redress provided, a situation at odds with the principles of accountability and transparency that formed the bedrock of any post-conflict human rights-based strategy.

38. **Mr. Ben Achour**, noting that article 35 of the Constitution granted almost complete immunity from prosecution to the head of state, asked whether it was in line with the principles of international law, which held that States had a duty to try persons suspected of serious human rights violations.

The meeting was suspended at 4.55 p.m. and resumed at 5.15 p.m.

39. **Ms. Tillekeratne** (Sri Lanka), responding to questions about the status of the Covenant and the First Optional Protocol within the Sri Lankan legal system, the eighteenth amendment to the Constitution and the role of the Human Rights Commission, drew the Committee's attention to paragraphs 3 to 24 of the replies to the list of issues (CCPR/C/LKA/Q/5/Add.1).

40. Article 12 of the Constitution provided for the equality of all persons before the law. It stipulated that no citizen could be discriminated against on the grounds, inter alia, of sex, rendering discriminatory laws and regulations unconstitutional. In that connection, it should be noted that sections 365 and 365 (a) of the Penal Code were not intended to target any particular group, but rather to preserve morality and public order.

41. **Mr. Pulle** (Sri Lanka), responding to questions about the Marriage Registration Ordinance, made reference to paragraph 42 of the replies to the list of issues. With regard to counter-terrorism, he drew the Committee's attention to paragraphs 47 to 57 of the same document. The 133 habeas corpus cases pending throughout the country would be settled in accordance with the legal procedures in place.

42. **Ms. Premawardhane** (Sri Lanka) said that, although the Government had militarily defeated the Liberation Tigers of Tamil Eelam (LTTE), overseas networks funded by expatriate members of the Tamil community still existed. The recently published EU Terrorism Situation and Trend Report 2014 had observed that LTTE networks remained in numerous countries, including Switzerland, and continued to attempt to rebuild their structures and operating capabilities, especially via fundraising and money laundering. Security forces in Sri Lanka had uncovered buried arms caches, but many more had yet to be found and posed a risk to national security.

43. Several incidents in recent years had provided evidence that former LTTE operatives in Europe, Malaysia, India and Sri Lanka were attempting to instigate a resurgence of terrorism. In 2012, LTTE cadres, acting on orders from accomplices in France, had assassinated a member of the Eelam People's Democratic Party. In the same year, Sri Lankan and Indian authorities had conducted a joint operation resulting in the arrest of LTTE operatives suspected of training young recruits to produce improvised explosive devices in Chennai, India.

44. In March 2014, after years of monitoring, the Government had placed 16 entities and 424 individuals on a sanctions list in accordance with United Nations Security Council Resolution 1373. The funds and assets of the entities and persons in question would remain frozen until they had been removed from the list. Investigations had confirmed that three former LTTE operatives had played a particularly significant role in recovering weapons and money, recruiting unemployed youths and rehabilitated LTTE cadres, and collecting information on potential assassination targets across Sri Lanka. Their efforts had been funded by associates in Europe, who had transferred money illegally through the *hawala* system. Although the three men had been killed on 11 April 2014, their case highlighted the threat that Sri Lanka still faced from LTTE remnants.

45. In May 2014, as part of ongoing attempts to address the issue, Malaysian authorities had extradited three former LTTE operatives wanted in connection with terrorism-related offences committed in Sri Lanka. The Government would continue to cooperate with other nations to prevent LTTE remnants from rebuilding the organization's military capability.

46. **Mr. Aryasinha** (Sri Lanka) said that the Prevention of Terrorism Act had not been repealed as LTTE remnants still posed a threat to national security. The Government was aware of the need to ensure that any action taken was necessary and proportionate, and had

taken note of the situation in other countries affected by terrorist acts, such as Iraq and the Syrian Arab Republic.

47. The Government's approach to reintegrating former combatants had involved taking calculated risks, such as the decision to allow longstanding emergency regulations to lapse in August 2011. It had also been a risk to rehabilitate LTTE cadres in society rather than in government institutions, but the former had been considered the setting most likely to produce positive results. In sum, when determining its response to the threat of terrorism, the Government had to err on the side of caution and be mindful of its responsibilities, which included the duty to protect citizens' right to life.

The meeting rose at 6 p.m.

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112th session

Summary record of the 3099th meeting
Held at the Palais Wilson, Geneva, on Wednesday, 8 October 2014, at 10 a.m.

Chairperson: Sir Nigel Rodley

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The meeting was called to order at 10.10 a.m.

Consideration of reports submitted by States parties under article 40 of the Covenant *(continued)*

Fifth periodic report of Sri Lanka (continued) (CCPR/C/LKA/5, CCPR/C/LKA/Q/5, CCPR/C/LKA/Q/5/Add.1 and HRI/CORE/LKA/2008)

1. *At the invitation of the Chairperson, the delegation of Sri Lanka took places at the Committee table.*

2. **Mr. Goonetilleke** (Sri Lanka) said that, pursuant to article 363 of the Criminal Code, a man who had non-consensual sex with his wife was considered guilty of rape, on condition that the spouses were legally separated. In cases where the spouses were not separated, charges could be brought for domestic violence if the rape had been accompanied by violence. Steps had been taken to increase the public's awareness of workplace violence and sexual harassment, and the Women's Bureau was also conducting awareness-raising activities, particularly among hospital staff.

3. **Ms. Tillekeratne** (Sri Lanka) said that the committee responsible for reforming the Muslim Marriage Act, chaired by a Supreme Court judge and comprising magistrates, lawyers, human rights specialists and eminent persons in the Muslim community, included three women members.

4. **Mr. Ruwachandra** (Sri Lanka) said that Sri Lanka rejected the allegations of violence and violations of the right to life contained in paragraph 9 of the list of issues. Where credible evidence existed, police officers accused of violence and extrajudicial killings were prosecuted and punished. Several trials were under way, including in the case involving fatal shots being fired by the police in Katunayake in May 2011. In April 2014 the Supreme Court had confirmed the sentence passed on four police officers accused of the abduction and murder of two persons. The criminal justice system and the Sri Lankan Criminal Code adequately covered such acts, and the required procedures for arrest and detention were clearly defined in departmental orders.

5. **Mr. Pulle** (Sri Lanka) said that charges had been brought against 13 persons in 2013 for the deaths of 5 students in January 2006. The trial had been suspended in order to locate a number of witnesses who had gone abroad. As for the murder of 17 employees of the French non-governmental organization International Action against Hunger in 2006, the Attorney-General had ordered an investigation and efforts were currently under way, in collaboration with the French diplomatic service, to gather statements from persons residing in France.

6. **Mr. Aryasinha** (Sri Lanka) said that bringing cases relating to internal military affairs before a military court was a universally recognized practice, including in the Hague and Geneva Conventions, and that military judgements handed down by courts in Sri Lanka could be appealed before the civilian courts. As for the alleged civilian casualties and the facts reported in the Channel 4 documentary, a military commission of inquiry had been set up even prior to the adoption of the national plan to implement the recommendations of the Lessons Learnt and Reconciliation Commission, which clearly demonstrated the Government's determination to investigate the matter. Investigations had shown that the Sri Lankan army had acted with discipline and restraint, while the terrorists of the Liberation Tigers of Tamil Eelam (LTTE) had committed war crimes by using civilians as human shields, using safe zones for military purposes, and forcibly enlisting children and older persons. Civilian casualties were, therefore, attributable to LTTE activities, and not to the Sri Lankan armed forces. The commission of inquiry was continuing its investigations, despite the refusal of Channel 4 to provide the original recordings and other useful items to

the investigation. The commission of inquiry's reports were confidential, but a summary of their findings had been made public.

7. In 2013, a commission had been established to investigate cases of disappeared persons in the Northern and Eastern Provinces and the civilian casualties incurred during the armed conflict that had ended in 2009. The commission's work was still continuing and contributed to the reconciliation efforts, which excluded international interference. In that regard, Sri Lanka rejected any reference to the report of the Secretary-General's Panel of Experts on accountability in Sri Lanka, which had not been approved by any intergovernmental body, and had no formal status within the United Nations.

8. **The Chairperson** said that Committee members had the right to take into account any source of information they considered appropriate, regardless of the opinion held by the State party's Government about its creditability.

9. **Mr. Neuman** asked whether the definition of torture contained in the Criminal Code included rape. He pointed out that the lack of information concerning the investigation, conviction and sentencing of torture reinforced suspicions of impunity. Noting that the Committee against Torture had already expressed concerns about that issue in its concluding observations of 2011 (CAT/C/LKA/CO/3-4), he asked whether the delegation had any information to show that the situation had since improved. As for arbitrary detention, he said that the drafting of a bill, whose adoption and application were not guaranteed, did not constitute an adequate response. Many shortcomings had been noted in respect of access to a lawyer and a doctor and the lack of a central register of detainees, and, according to some reports, persons had been held in unofficial places of detention. He asked the delegation to clarify whether the witness protection bill had been adopted and, if so, whether the adoption of that instrument had produced a tangible impact. Similarly, he requested further information on the measures taken to reduce prison overcrowding through alternative sentences, such as house arrest. Information on measures taken to reduce the use of pretrial detention, establish an independent mechanism for monitoring detention conditions, and speed up legal proceedings would also be welcome. Recalling the concerns expressed by the Committee in its previous concluding observations about the independence of the judiciary in Sri Lanka, he pointed out that a judge had been removed from office by Parliament in October 2012 and replaced by a close advisor of the President. Noting that the Supreme Court had been content to declare itself incompetent to judge the constitutionality of the procedure in February 2014, he asked what steps the Government intended to take to restore confidence in the independence of the judiciary.

10. **Mr. Iwasawa** asked the delegation to comment on the fact that the human rights situation in the country did not seem to have improved, despite the fact that the armed conflict had ended in 2009, and on reports that the adoption of the eighteenth constitutional amendment in 2010 had weakened the institutional human rights protection framework. Noting that the Government intended to raise the age of criminal responsibility, which was currently set at 8 years, he enquired as to when such a step would be taken and what the delegation understood by "an internationally acceptable age". He also asked the delegation to reply to concerns raised regarding criminal justice, detention conditions and alternative sanctions for minors.

11. Noting that corporal punishment was prohibited in schools and that there was an instructors' training programme addressing non-violence and positive methods of discipline, he requested clarification of what the State party meant by the phrase "non-violence and positive methods of discipline". He also wished to know more about the issue of corporal punishment in the family and requested data concerning cases of violence against children in child protection institutions. Lastly, he enquired whether the Sri Lankan Government had taken steps to combat child labour.

12. **Ms. Seibert-Fohr** asked the delegation to provide statistical data on any cases in which persons had been found guilty of human trafficking and had subsequently been convicted and punished. She wished to know whether the State party had taken measures to prevent such acts and to protect and assist victims. She also asked the delegation to provide assurances to the Committee that no person in Sri Lanka would be subject to criticism or reprisals for disclosing information to the Human Rights Committee. Furthermore, she requested details of the investigations into the assaults suffered by members of the media and human rights defenders and their findings. She asked the delegation to comment on allegations that demonstrations against the Government, in particular in the Northern Province, had been monitored by the intelligence services, and that protestors had been dispersed or threatened by the police. Lastly, noting that some news websites had been blocked, she enquired as to the legal basis for those types of restrictions.

13. **Mr. Flinterman** asked whether article 12 of the Constitution prohibiting discrimination could be invoked by lesbian, gay, bisexual and transgender persons in appropriate circumstances in order to lodge a complaint with the Supreme Court regarding their fundamental human rights. He also wished to know whether the State party intended to repeal discriminatory laws which required women to obtain written consent from their husbands before they could sell their immovable property. He also asked whether the draft master plan for the resettlement of displaced persons had been adopted and whether it provided lasting resettlement solutions.

14. **Mr. Shany** asked why, in the so-called "Trinco 5" case, involving 5 boys killed in Trincomalee in 2006, the authorities had questioned the suspects only seven years after the event, and why the 12 police officers arrested had been immediately released on bail. As for the alleged war crimes committed during the armed conflict which had lasted for over 30 years in Sri Lanka, he questioned the credibility of a State establishing a military commission of inquiry in order to investigate policies believed to have been authorized by the highest military authorities. He questioned, in particular, whether the commission would be able to investigate the allegations of General Fonseka concerning the involvement of the Ministry of Defence in certain decisions regarding the treatment inflicted on LTTE leaders. He asked whether the State party would fulfil its international obligations and conduct a thorough and impartial investigation into the allegations of serious human rights violations committed during the armed conflict. He also called on the delegation to provide additional information on legal proceedings taken against General Fonseka, given the short time elapsed between the General's participation in the 2010 elections and the instigation of legal proceedings, and the vague nature of the claims against him, such as contempt of a military authority order prohibiting political activities, sedition and dishonourable conduct.

15. As for the act of 2011 that on the recovery of businesses displaying unsatisfactory results and underutilized assets, he asked the delegation to indicate whether clear criteria existed to assess the results of an underperforming business and to determine the extent to which such businesses had a negative effect on the national economy. The delegation was also invited to comment on reports that the law had been applied in a discriminatory manner against the commercial interests of persons belonging to, or associated with, opposition groups, and to indicate what safeguards had been incorporated to prevent any misuse of the act.

16. Recalling the riots of June 2014 in Aluthgama and Beruwala following a rally organized by the Buddhist group Bodu Bala Sena, during which many Muslims had been attacked, he asked the delegation to respond to allegations that the police had failed to halt the gathering despite the obvious risk of violence, had not taken the necessary precautions to prevent a disturbance and had failed to intervene to stop the violence. The delegation should also explain why so few perpetrators of acts of violence based on ethnic origin had

been prosecuted, and respond to concerns regarding the discriminatory treatment and repression of religious minorities in the State party.

17. **Ms. Chanet** enquired as to the exact nature of the charges brought against the President of the Supreme Court, Shirani Bandaranayake, who had been indicted and dismissed in 2013, to justify disciplinary proceedings against her, and whether the procedure followed in her case was in compliance with the Constitution.

18. **Mr. Zlătescu**, noting that the media in the State party faced censorship and that journalists were subject to intimidation and persecution if they spoke out against Government policy, asked what steps would be taken by the State party to guarantee the freedom of the press and promote the development of civil society. He also wished to know whether investigations had been conducted into the reported disappearances and murders of journalists and whether reparations had been offered to the families of the victims.

19. **Mr. Seetulsingh**, recalling the State party's refusal to cooperate with the Human Rights Committee on communications from Sri Lankan nationals following its adoption of Views on 21 July 2014 on the *Singarasa v. Sri Lanka* case, asked the delegation to refer the matter to the State party authorities for them to reconsider their position.

20. He expressed surprise at the provisions of article 4 of the Constitution, according to which the judicial power of the people was exercised by Parliament through the courts, contrary to the principles of separation of powers and the independence of the judiciary. He would like the matter to be reviewed by the authorities of the State party.

21. **The Chairperson** asked whether, in the case of the murder of 17 persons working for International Action against Hunger in 2006, and in the "Trinco 5" case, the Government was prepared to allow witnesses, who had fled abroad for safety reasons, to testify remotely via audio or video link, without revealing their exact location. He also wished to know whether the Sri Lankan commissions of inquiry into the serious human rights violations committed by an administration established by that very same administration, had shed light on the fate of disappeared persons, or had sought and obtained the prosecution of those responsible for abduction, murder and torture.

The meeting was suspended at 11.50 a.m. and resumed at 12.10 p.m.

22. **Mr. Divaratne** (Sri Lanka) said that a number of the 285 observations and recommendations contained in the report of the Lessons Learnt and Reconciliation Commission were similar and shared the same objectives. The Government had adopted 144 recommendations, which had been consolidated into 5 areas in the Commission's national action plan, namely international humanitarian law, human rights, the provision of land and resettlement, restitution and compensation, and reconciliation. Those recommendations were currently being implemented.

23. **Mr. Sugathadasa** (Sri Lanka) said that, according to a joint study by the Government of Sri Lanka and the Office of the United Nations High Commissioner for Refugees in Sri Lanka, as of 31 August 2014, 220,298 displaced families, including 774,447 persons, had been resettled, and 7,840 families were still waiting, which was equivalent to 3.3 per cent of all displaced persons. The Sri Lankan Government was committed to providing lasting resettlement solutions for all displaced persons and had officially established a timetable to that effect. At the end of August 2014, the number of new houses built to rehouse displaced persons had exceeded 65,000 and more than 9,000 damaged houses had been renovated with financial support from the public authorities and lending agencies. The Sri Lankan Government intended to continue constructing and renovating houses. Returning land and property to displaced persons had begun four and a half years ago. In the Northern Province, less than 3,000 hectares of land were left to be returned, compared to more than 10,000 hectares in 2009. Only some 600 families whose

land had been requisitioned for public purposes had had to settle close to their former homes. Moreover, the resettlement policy fully recognized the principle of gender equality, and all displaced persons, women or men, were entitled to the same benefits.

24. **Mr. Illayapparachchi** (Sri Lanka) recalled that, in a judgement concerning the application of the Covenant, the Supreme Court of Sri Lanka had found that article 16, paragraph 1, of the Constitution, which provided solely for the upholding of existing laws, could not be said to be incompatible with the Covenant on the grounds that certain aspects of personal law were discriminatory against women. The question of legislation touching on personal rights was a very delicate one, and many changes were needed, they should not be imposed by the Covenant, but rather be requested by the sector of the population affected.

25. The allegations that former women combatants had been more exposed to rape and violence were unfounded: the Government had a zero tolerance policy towards sexual violence and inflicted heavy penalties on reported perpetrators. The Government urged the Committee to send it any information available on the subject so that it could launch an investigation and, if necessary, follow up the allegations. The National Women's Committee was responsible for implementing the Women's Charter, which guided the Government's actions in that area. As part of capacity-building efforts, a new chairperson had been appointed to the National Women's Committee; assistance and complaint handling services had been established and in 2014 the committee had been allocated additional funds.

26. **Mr. Goonetilleke** (Sri Lanka) said that the Ministry of Justice had set up a team to combat human trafficking, particularly of women and children, and that assistance and protection were provided to victims and their rights upheld. A reception centre had also been established, which was now fully operational.

27. The Government of Sri Lanka rejected the allegations concerning ongoing violations of freedom of expression, freedom of association and the right to peaceful assembly, particularly against human rights defenders, journalists and their families. Although some cases of violence against members of the media remained unresolved, no restrictions had been imposed on the types of subject that could be covered by the press. He invited the Committee to note the diversity of opinions expressed in the written press and the audiovisual and electronic media, which often harshly criticized the Government. No measures had been taken to censor the press since the current Government had taken office. Parliament had repealed the law on defamation, and persons who considered themselves to be victims of fundamental human rights violations could bring their cases before the courts, the Supreme Court or the National Human Rights Commission.

28. **Mr. Pulle** (Sri Lanka) said that all state organs had a zero tolerance policy towards torture and that the Attorney-General did not defend officials suspected of committing acts of torture. The Government considered that the definition of torture given in domestic law covered all the aspects contained in article 1 of the Convention against Torture. Furthermore, police officers were obliged to provide medical care to those persons under arrest who required it, before bringing them before a judge.

29. The principle of the independence of the judiciary was enshrined in the Constitution and any violation of that principle was punishable. Disciplinary proceedings could be brought against judges for misconduct or incapacity. Only the Supreme Court was authorized to interpret the Constitution and it gave due consideration to the principle of the separation of powers, as embodied in the Constitution.

30. **Mr. Aryasinha** (Sri Lanka) hoped that the Committee was aware of the fact that many other developing countries did not have such positive indicators as Sri Lanka, although it had been forced to combat terrorism for 30 years and had had to fulfil its human

rights obligations under very complex circumstances. Sri Lanka sought to manage its affairs as a "normal" country, despite undergoing a difficult transition period. After weighing up the risks it would entail, the Government had consciously decided to allow displaced persons, including former combatants, to freely choose their place of resettlement. However, it continued to take certain precautions in the Northern and Eastern Provinces, because a large number of LTTE arms and ammunition depots remained concealed there. Lastly, it should be noted that Sri Lanka had duly published the report of the Lessons Learnt and Reconciliation Commission, implemented its recommendations and used it as the basis for a national action plan, the implementation of which had been described in detail to the Committee.

31 **The Chairperson** said that the Committee did not wish to judge Sri Lanka but was not judging Sri Lanka but rather trying to assess the State's implementation of specific provisions of the Covenant, an instrument which the State party had ratified without reservations. The Committee also refrained from making comparisons between States. The Committee's assessment relied on legal, and not political, criteria. The Committee was aware that Sri Lanka was emerging from a bloody civil war, with a group that did not hesitate to use terrorist tactics to achieve its aims. It also recognized the importance of resettlement activities and the positive outcomes of the transition process. However, for decades serious allegations of disappearances, extrajudicial killings and acts of torture committed in Sri Lanka during the conflict and beyond had been submitted to authoritative international organizations, which often judged such allegations to be well-founded. The existence of a zero-tolerance policy was not sufficient if such violations continued to occur, and the steps taken to implement the policy should be reviewed.

32. He recalled that, in regard to personal law, according to article 26 of the Covenant all persons were equal before the law and were entitled without discrimination to equal protection of the law. The provisions of article 27 supplemented those of article 26 and focused on individual rather than collective rights. Lastly, he noted that Sri Lanka did not cooperate with the Committee as far as the individual communications procedure was concerned, despite having deposited the instruments of ratification of the Optional Protocol to the Covenant with the Secretary-General. The Committee would welcome the State party's resumed cooperation under that procedure.

The meeting rose at 1.10 p.m.